

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Nathan Vidal, Debra Kennick, Abdjul Martin, and Eduardo Granados, on behalf of themselves and all other similarly situated individuals,

Plaintiffs,

vs.

The Hershey Company,

Defendant.

Case No.: 24-60831-CIV-DAMIAN/Valle

**DECLARATION OF JAMES C. KELLY IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

I, James C. Kelly, declare under penalty of perjury, that the following is true and correct:

1. I am co-counsel for Plaintiffs in the above-captioned action.
2. I submit this declaration in support of Plaintiffs' Motion for Class Certification.
3. Attached as Exhibit 1 hereto is a true and correct copy of a list of 44 cases—28 of which were contested—where certification was granted although customer receipts may be unavailable.
4. I declare under penalty of perjury that the foregoing is true and correct.

Date: February 21, 2025

/s/ James C. Kelly

James C. Kelly, Esq. (admitted *pro hac vice*)
THE RUSSO FIRM
244 5th Avenue, Suite K-278
New York, NY 10001
T: 212-920-5042
E: jkelly@therussofirm.com

Counsel for Plaintiffs

EXHIBIT 1

Cases In Which Classes Were Certified On Consumer Claims Where Purchasers Were Unlikely To Have Retained Receipts

Contested (Non-Settlement Class)

Hasemann v. Gerber Products Co., 331 F.R.D. 239, 272 (E.D.N.Y. 2019) (certifying Florida and New York classes of consumers who purchased Good Start Gentle infant formula)

Famular v. Whirlpool Corporation, 2019 WL 1254882, at *4 (S.D.N.Y. March 19, 2019) (certifying a New York class of purchasers of various models of Whirlpool washing machines).

Kurtz v. Kimberly-Clark Corp., 321 F.R.D. 482, 539 (E.D.N.Y. 2017) (certifying various New York classes of purchasers of flushable wipes from different manufacturers)

Goldemberg v. Johnson & Johnson Consumer Companies, Inc., 317 F.R.D. 374, 399 (S.D.N.Y. 2016) (certifying Florida, California, and New York classes of purchasers of various Aveeno Active Naturals products under (b)(3) for damages and (b)(2) for injunctive relief)

In re Scotts EZ Seed Litig., 304 F.R.D. 397, 407 (S.D.N.Y. 2015) (certifying California and New York classes of purchasers of Scotts EZ Seed).

Ebin v. Kangadis Food Inc., 2014 WL 737960, at *9 (S.D.N.Y. Feb. 25, 2014) (certifying a nationwide class of purchasers of pomace oil mislabeled as “pure olive oil”).

Astiana v. Kashi Co., 291 F.R.D. 493, 510 (S.D. Cal. 2013) (certifying a class of California purchasers of Kashi food products that were mislabeled with the representation “Nothing Artificial”).

Thurston v. Bear Naked, Inc., 2013 WL 5664985, at *12 (S.D. Cal. 2013) (certifying a class of California purchasers of Bear Naked food products that were mislabeled with the representations “100% Pure & Natural” and “100% Natural”).

In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig., 722 F.3d 838, 861 (6th Cir. 2013) (affirming district court’s certification of a liability class of Ohio purchasers of Whirlpool Duet front-loading washing machines).

Guido v. L’Oreal, USA, Inc., 284 F.R.D. 468 (C.D. Cal. 2012) (certifying California and New York classes of purchasers of L’Oreal’s Garnier Fructis Sleek & Shine Anti-Frizz Serum, which include claims under GBL §§ 349 and 350).

Tait v. BSH Home Appliances Corp., 289 F.R.D. 466, 498 (C.D. Cal. 2012) (certifying state classes of purchasers of Bosch and Siemens brand 27” front-loading automatic washing machines).

Ries v. Arizona Beverages USA LLC, 287 F.R.D. 523, 542 (N.D. Cal. 2012) (certifying a class of California purchasers of Arizona beverages mislabeled with the representations “All Natural,” “Natural,” or “100% Natural”).

Johns v. Bayer Corp., 280 F.R.D. 551, 560 (S.D. Cal. 2012) (certifying a class of California purchasers of Bayer One A Day Men’s Health Formula and One A Day Men’s 50+ Advantage multivitamins).

In re POM Wonderful LLC Mktg. & Sales Practices Litig., 2012 WL 4490860, at *7 (C.D. Cal. Sept. 28, 2012) (certifying a class of purchasers of POM Wonderful pomegranate juice products).

In re Ferrero Litig., 278 F.R.D. 552, 562 (S.D. Cal. 2011) (certifying a class of purchasers of Nutella hazelnut spread).

Johnson v. General Mills, Inc., 275 F.R.D. 282, 290 (C.D. Cal. 2011) (certifying a class of purchasers of Yoplait Yo-Plus yogurt).

Godec v. Bayer Corp., 2011 WL 5513202, at *7-8 (N.D. Ohio Nov. 11, 2011) (certifying a class of Ohio purchasers of Bayer One A Day Men’s Health Formula and One A Day Men’s 50+ Advantage multivitamins).

Delarosa v. Boiron, Inc., 275 F.R.D. 582, 595 (C.D. Cal. 2011) (certifying a class of California purchasers of Children’s Coldcalm homeopathic cold products).

Zeisel v. Diamond Foods, Inc., 2011 WL 2221113, at *10 (N.D. Cal. June 7, 2011) (certifying a class of purchasers of Diamond Shelled Walnut products that were mislabeled with certain representations regarding the health benefits of omega-3 fatty acids).

Chavez v. Blue Sky Natural Beverage Co., 268 F.R.D. 365, 380 (N.D. Cal. 2010) (certifying a class of purchasers of Blue Sky beverages).

Lee v. Carter-Reed Co., L.L.C., 4 A.3d 561, 583 (N.J. 2010) (reversing and remanding lower court’s denial of class certification for New Jersey purchasers of the Relacore weight loss supplement).

Rivera v. Bio Engineered Supplements & Nutrition, Inc., 2008 WL 4906433, at *5 (C.D. Cal. Nov. 13, 2008) (certifying a class of purchasers of defendant’s Cellmass, Nitrix, and N.O.-Xplode workout supplements).

Elias v. Ungar’s Food Products, Inc., 252 F.R.D. 233, 252 (D.N.J. 2008) (certifying class of purchasers of certain Dr. Praeger’s frozen food products that misrepresented the amount of calories and fat per serving).

In re Reformulated Gasoline (RFG) Antitrust & Patent Litig., 2007 WL 8056980, at *13 (C.D. Cal. Mar. 27, 2007) (certifying class of California purchasers of Unocal gasoline marked as compliant with the regulations promulgated by the California Air Resources Board).

Gordon v. Microsoft Corp., 2003 WL 23105552, at *1 (Minn. Dist. Ct. Mar. 14, 2003) (certifying a class of purchasers of Microsoft Word or Microsoft Excel).

Gasperoni v. Metabolife, Intern. Inc., 2000 WL 33365948, at *1 (E.D. Mich. Sept. 27, 2000) (certifying a class of Michigan purchasers of the diet product Metabolife 365, an ephedrine product).

In re Playmobil Antitrust Litig., 35 F. Supp. 2d 231, 236 (E.D.N.Y. 1998) (certifying a class of purchasers of Playmobil brand toy products).

Sun Coast Resources, Inc. v. Cooper, 967 S.W.2d 525, 528-29 (Tex. App. Ct. 1998) (affirming an order certifying a class of purchasers of tainted gasoline).

Not Contested (Settlement Class)

In re Haier Freezer Consumer Litig., No. 11-CV-02911-EJD, slip op. at 1 (N.D. Cal. Oct. 25, 2013) (Final Judgment and Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement) (certifying a settlement class of purchasers of the Haier model HNCM070E compact chest freezer).

Rossi v. The Proctor & Gamble Co., 2013 WL 5523098, at *13 (D.N.J. Oct. 3, 2013) (certifying a settlement class of purchasers of Crest Sensitivity Treatment & Protection toothpaste).

Date v. Sony Elecs. Inc., 2013 WL 3945981, at *3-4 (E.D. Mich. July 31, 2013) (certifying a settlement class of purchasers of Sony Grand Wega Televisions, models KDS-R50XBR1 and KDS-R60XBR1).

Johnson v. General Mills, Inc., 2013 WL 3213832, at *2 (C.D. Cal. June 17, 2013) (certifying a settlement class of purchasers of General Mills Yo-Plus yogurt).

Correa v. Sensa Prods., LLC, No. BC476808, slip op. at 3 (Cal. Sup. Ct. Nov. 9, 2012) (Judgment, Final Order, and Decree Granting Final Approval to Class Action Settlement) (certifying a settlement class of purchasers of Sensa weight loss products).

Gallucci v. Boiron, Inc., 2012 WL 5359485, at *3-4 (S.D. Cal. Oct. 31, 2012) (certifying a settlement class of purchasers of defendant's homeopathic cold products).

Fishbein v. All Market Inc. d/b/a/ Vita Coco, No. 11-CV-05580, slip op. at 2-3 (S.D.N.Y. Aug. 22, 2012) (Final Order and Judgment Approving Class Action Settlement) (certifying a settlement class of purchasers of Vita Coco coconut water).

In re Sketchers Toning Shoe Prods. Liab. Litig., 2012 WL 3312668, at *2-6 (W.D. Ky. Aug. 13, 2012) (certifying a settlement class of purchasers of Sketchers Toning Shoes).

O'Brien v. Brain Research Labs, LLC, 2012 WL 3242365, at *10 (D.N.J. Aug. 9, 2012) (certifying a settlement class of purchasers of the Procera AVH memory-boosting

supplement).

In re Nutella Mktg. & Sales Practices Litig., No. 11-CV-01086, slip op. at 3 (D.N.J. Jul. 31, 2012) (Final Approval Order and Judgment) (certifying a settlement class of purchasers of Nutella hazelnut spread).

O'Brien v. LG Elecs. USA, Inc., No. 10-CV-04499, slip op. at 2-3 (D.N.J. Nov. 21, 2011) (Final Approval Order and Judgment) (certifying a settlement class of purchasers of LG refrigerators, models LFX 25975, LFX 28977, LMX 25985, and LFX21975, and Kenmore refrigerators, models Kenmore 7975, Kenmore 7978, and Kenmore 7973).

Kelly v. Phiten USA, Inc., 277 F.R.D. 564, 572 (S.D. Iowa Oct. 28, 2011) (certifying a settlement class of purchasers of defendant's bracelets, necklaces, shoe insoles, linens, bedding, and other products, which were advertised to provide certain health benefits).

In re Pet Food Prods. Liab. Litig., 629 F.3d 333, 359 (3d Cir. 2010) (affirming certification of a settlement class of purchasers of certain brands of wet pet food that were contaminated with melamine and cyanuric acid).

In re M3 Power Razor System Mktg. & Sales Practice Litig., 270 F.R.D. 5, 64 (D. Mass. 2010) (certifying a settlement class of purchasers of the Gillette M3P battery-operated shaving razor).

In re Compact Disc Minimum Advertised Price Antitrust Litig., 216 F.R.D. 197, 206 (D. Me. 2003) (certifying a broad settlement class of purchasers of compact disc ("CD") music products).

Rinaldi v. Iomega Corp., 2001 WL 34890424, at *1 (Del. Super. June 29, 2001) (certifying a settlement class of purchasers of Iomega Zip Drives).